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STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

Thomas Wade Bruton  
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ATTORNEY GENERAL

RALEIGH

March 9, 1960

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MEMORANDUM TO: Governor Luther H. Hodges

FROM: Thomas Wade Bruton,  
Attorney General

SUBJECT: Powers of the Governor of North Carolina in  
Relation to Lunch Counter Sit-ins and any  
Riots or Breaches of the Peace Incident  
Thereto.

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The maximum applicable power grant expressed and conferred by the North Carolina Constitution, and statutes pursuant thereto, upon the office of Governor, relates to his denomination as Commander in Chief of the militia. Article 12, Section 3, empowers the Governor to call out the militia to execute the law and to suppress riots.

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The ordinary and usual power and authority is expressed in Article 3, Section 1, of the North Carolina Constitution, which vests the supreme executive power of the State in the Governor.

The statutory laws of North Carolina elaborate little upon these constitutional grants of authority. The primary applicable statute is G. S. 147-12 in part, which gives the Governor the power and duty of supervising the official conduct of "all executive and ministerial officers ...". It is appropriate to note that there is no constitutional or statutory expression by which the Governor is authorized or empowered to supplant or oust local law enforcement officials engaged in the proper discharge of their traditional criminal law enforcement responsibilities.

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Where the local situation reasonably requires it, however, there are a number of measures which the Governor may lawfully take, primarily involving the commitment of State law enforcement agencies, in aid, support and re-enforcement of local law enforcement agencies. The State Highway Patrol is, of course, manned and officered by individuals trained and authorized in the law enforcement field and through the Director of the Motor Vehicles Department and the Commander of the State Highway Patrol, the Governor may make personnel and facilities of the State Highway Patrol available.